



CGA Government Administration and Elections Committee

February 18, 2009 Public Hearing

Comments Submitted By Christine S. Horrigan, Government Director

**Comments On:**

SB 909 AAC Technical Changes to Election Laws

SB 910 AAC Permanent Absentee Ballot Status

SB 911 AAC Voters Who Change Party Affiliation

SB 915 AAC Elections and Government-Related Recommendations  
Of the League of Women Voters

SB 917 AAC The Training of Registrars of Voters

SJ 42 Resolution Amending the State Constitution to Allow Early Voting

SJ 43 Resolution Proposing an Amendment to the State Constitution  
Concerning Voting by Absentee Ballot

HB 5012 AA Implementing Early Voting in Connecticut

HB 5083 AAC Mail-In Voter Registration and University Introductory Packets

HB 5825 AA Establishing a No-Fault Provisional Ballot Law

HB 5903 AAC Absentee Voting for Members of the Armed Forces Stationed Overseas

HB 6435 AAC Election Day Registration

HB 6440 AAC Certain Revisions to Election Related Statutes

HB 6441 AAC Confidence in the Connecticut Election System

\*\*\*\*\*

My name is Christine Horrigan. I am Government Director for the League of Women Voters of Connecticut, a statewide organization with over 2100 members dedicated to improving

the electoral process. On behalf of the League, I would like to thank you for giving the League the opportunity to comment upon the bills that are before the Committee today.

### **SB 909 AAC Technical Changes to Election Laws**

This is a technical bill which makes revisions to elections related statutes to reflect the use of new voting technology. The League would like to draw the Committee's attention to three sections which do not appear to accurately reflect current realities. First, Section 27 provides that all voting tabulators shall be transferred to the polling place by an elector authorized by the registrars of voters. It is our understanding that the tabulators must be transferred to the voting place in the custody of two individuals of different parties or a police officer. Second, Section 28 requires that the voting tabulators be delivered to the polling place by 6 p.m. on the day preceding the election. It is our experience that many tabulators are transferred to the polling place on the morning of the election. We believe that this provision should be changed to permit (but not require) the delivery of the tabulators to the polling place on the preceding day and that additional language should be added to ensure that any tabulators so delivered are adequately secured in a manner approved by the Secretary of the State. Finally, Section 44 mandates that the "compartments" of the voting tabulator to be closed and locked after the results of the election are announced and corrected. Although the ballot boxes have compartments, we are unaware of any compartments on the actual voting tabulators.

These three provisions appear to be holdovers from the lever machine days and should be clarified.

### **SB 910 AAC Permanent Absentee Ballot Status**

The League believes that voters who are unable to get the polls should not be disenfranchised because of difficulties applying for and receiving absentee ballots (including long lead times associated with the mails). This group includes people who are permanently disabled, infirm (shut-ins) or suffering from an illness (such as Parkinson's disease) that makes an appearance at the polls on any given day questionable. By eliminating the interim step of applying for the ballot, permanent absentee ballot status should also reduce paperwork and costs to municipalities.

Two of the bills before the Committee today (SB 910 and HB 6440) would provide for the automatic mailing of absentee ballots to permanently disabled voters, but only *SB 910 AAC Permanent Absentee Ballot Status* would extend that right to voters who are permanently unable to go to the polls on Election Day because of infirmity. We believe that the definition which appears in the last sentence of the bill should be expanded by adding the word "illness" to the list of reasons that a person may be permanently physically incapacitated. With that change, the League urges the Committee to protect these vulnerable voters by supporting SB 910.

### **SB 911 AAC Voters Who Change Party Affiliation, SB 915 AAC Elections and Government Related Recommendations of the League of Women Voters**

Currently, unaffiliated voters can register with a party up until noon of the day before the primary. Voters who move to a new town can switch parties when they register to vote and vote in a primary. However, voters who switch parties without moving during the three months

preceding a primary cannot vote in the primary of either party. They are effectively disenfranchised for purposes of the primary, often unknowingly. These bills, which appear to be identical, would ameliorate this situation by reducing the waiting period from three months to one month. While perhaps not ideal, the change would at least bring a more realistic time frame to the process and give more voters an opportunity to change parties as a primary approaches. The League urges your support for this bill.

#### **SB 917 AAC The Training of Registrars of Voters**

The League believes that the most glaring deficiency in the transition to new voting technology has been the lack of consistency exhibited across the state. We support mandatory training and supervision of all election workers to assure uniform compliance with federal and state laws. We applaud the creation of an elections and compliance training unit within the Secretary of the State's office to bring much needed consistency and uniform compliance to our election processes.

#### **SJ 42 Resolution Amending the State Constitution to Allow Early Voting, SJ 43 Resolution Proposing an Amendment to the State Constitution Concerning Voting by Absentee Ballot, and HB 5012 AA Implementing Early Voting in Connecticut**

The League supports measures which assure that absentee ballot privileges are available to all electors – for any reason or no reason at all. There are two resolutions and one bill before the Committee today which would loosen the standards for voting by absentee ballot. SJ 42 would amend the Constitution to allow the General Assembly to pass laws permitting any elector to vote by absentee ballot. SJ 43 and its enabling legislation HB 5012 would permit any elector who is unable to appear at the polls to vote by absentee ballot. The League believes that the latter resolution muddies the waters and may present policing and interpretation problems. Although we support both resolutions, we prefer SJ 42 which would allow any voter to vote by absentee ballot, irrespective of the reason.

#### **HB 5083 AAC Mail-In Voter Registration and University Introductory Packets**

The League supports expanded opportunities for registration of potential voters through increased use of mail-in applications. This bill, which would require universities and private colleges to include voter registration applications in their introductory packets, targets younger voters who are typically under-represented in the election process and is not unduly burdensome. We urge your support for this bill.

#### **HB 5825 AA Establishing a No-Fault Provisional Ballot Law**

Currently, voters whose names do not appear on the official registry list for a polling place and who cannot be restored or transferred from another polling place may request and vote by provisional ballot in federal elections. HB 5825 would extend the provisional ballot law to all elections, but would change the current law to require that provisional ballots only be made available to electors who produce government issued identification demonstrating that they reside in the voting district. While the League supports extending the provisional ballot law to

all elections, we strongly oppose making the presentation of government issued identification a condition of obtaining a provisional ballot. First, we doubt that such a requirement complies with Help America Vote Act. Second, while the bill's statement of purpose declares that it is intended "[t]o change the provisional ballot system to a no-fault provisional ballot system in order to ensure that a person's vote will always be counted if that person is eligible to be a voter," the provision regarding presentation of government issued ID virtually ensures that some voters will be denied the right to vote. Finally, we believe that the decision regarding whether a vote should count should not be pre-empted at the polling place by a government issued ID requirement, but rather left to the registrar of voters after a thorough investigation as required under current law. Accordingly, we recommend eliminating the language requiring the presentation of a government issued ID from the law. We feel that this is particularly important to prevent abuses through the challenge process, given the changes suggested in *HB 6440, AAC Certain Revisions to Elections Related Statutes*, which would replace challenge ballots with provisional ballots.

### **HB 5903 AAC Absentee Voting for Members of the Armed Forces Stationed Overseas**

A recent study by the Pew Center on the States, entitled *No Time To Vote: Challenges Facing America's Overseas Military Voters*, found that military voters from Connecticut did not have enough time to vote under current Connecticut law. The report noted that "[o]verseas military voters from Connecticut can fax their ballot request—but the state requires the ballots to be transmitted to and from voters by postal mail. Because the time needed for ballots to travel by mail takes longer than the time Connecticut provides in its process, the state's military voters abroad would need 13 additional days to have enough time to vote." [http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Fact\\_Sheets/Improving\\_elections/NT\\_TV\\_Connecticut.pdf](http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Fact_Sheets/Improving_elections/NT_TV_Connecticut.pdf). The report suggested a number of steps that Connecticut could take to remedy this situation including sending out blank ballots earlier and accepting completed ballots later, allowing electronic transmission of blank ballots and expanding the use of federal write-in absentee ballots for state and local elections.

The League believes that Connecticut must take immediate steps to prevent the disenfranchisement of our military voters who are serving overseas. HB 5903 attempts to remedy this situation. The League supports secure electronic transmission of the federal postcard application form (both ways) and any absentee ballot to the voter, as proposed in subsection (b) of that bill. However, we are concerned about issues related to privacy, voter fraud and undue influence in connection with the transmission of a completed ballot from the overseas voter to the town clerk's office. We would like the Secretary of the State to look carefully and thoughtfully at measures which can ease the transmission of the completed ballot while preserving privacy and preventing fraud and undue influence. We do not believe that these issues surrounding the security and privacy of the completed ballot should be grounds for inaction in providing a secure electronic transmission of ballots to military voters. We do, however, recommend eliminating the last sentence of subsection (c) which prohibits requiring a voter to submit a paper ballot in connection with an electronic submission so as not to tie the Secretary of the State's hands.

## HB 6435 AAC Election Day Registration

The League is a long time proponent of Election Day registration for all federal, state and local elections. States with Election Day registration have voter turnout rates that are significantly higher than the national average, with little voter fraud. In particular, Election Day registration encourages first time voters, young people and new residents to cast their votes.

The League strongly supports HB 6435 with the following caveats:

- In the past, residents and former residents could vote in presidential elections using a presidential ballot. HB 6435 does away with this right for Connecticut residents, presumably because those residents may now register vote on Election Day. Any change to the presidential ballot laws with respect to residents should be tied to the adoption of Election Day registration.
- Subsection 1(c) permits an applicant who is not already an elector to register on Election Day. It appears that only residents who are not registered to vote may take advantage of Election Day registration. The League believes that Election Day registration should also be available to individuals who are registered to vote in other towns and jurisdictions. We recommend clarifying this section to allow anyone who resides in the admitting jurisdiction and otherwise meets the requirements of an elector, whether or not they have previously registered to vote, to register on Election Day.

## HB 6440 AAC Certain Revisions to Election Related Statutes

The League believes that the political process must be open to all citizens and the *right to vote with confidence* must be guaranteed. We support those provisions of HB 6440 which seek to provide greater accountability, clarity and quality control in our election law processes. Specifically, we support shortening the timeframes for audits, mandating hand counts for all recanvasses and allowing such recanvasses to satisfy the requirements of a manual audit, and requiring towns to comply with memory card testing procedures or face a full audit (Section 31), giving the Secretary of the State access to polling places on Election Day for purposes of reviewing compliance with state and federal law (Section 39), and adopting measures to address voting privacy issues in a consistent manner (Sections 44, 45 and 46). However, with respect to the last issue, we note that while Sections 44 and 45 attempt to create a zone of privacy around the voting tabulator from encroachment by other voters, no attempt has been made to address the issue of the machine tenders standing too close to the machines – a frequent complaint of voters. We urge the Committee to look at whether this issue should also be addressed by statute or whether it is better left to regulation and procedure.

The League also supports extending the prohibition on transporting, preparing, repairing and maintaining a voting machine in C.G.S. §9-247a to business entities affiliated with a candidate (Section 24). However, we would go further and prohibit a member of the immediate family of a candidate from serving as a moderator. *See exceptions to C.G.S. §9-247a.*

Finally, the League applauds the changes proposed in Section 11 of HB 6440 which relate to the process for issuing absentee ballots. In 2005, Public Act 05-235 was passed which

created new requirements for the distribution of applications for absentee ballots. Among other things, the law requires anyone who distributes more than 5 absentee ballot applications to pre-register with the appropriate town clerk and to maintain and file a list of the people who receive applications. The purpose of the law is to prevent fraud in the absentee ballot process.

The League believes that these requirements have a chilling effect on efforts to encourage voter participation and that the appropriate method of discouraging voter fraud is through the application of civil and criminal penalties. Following passage of the law, the state League instructed local leagues to cease distributing applications for absentee ballots in connection with their voter registration efforts due to concerns that local leagues, which have limited resources, might inadvertently run afoul of the law and find themselves subject to penalties. Currently, the League will provide information only as to where absentee ballot applications may be obtained, such as town clerks' offices. This places an additional, unnecessary burden on newly registered voters who wish to vote by absentee ballot and discourages voter participation.

The League is aware of the concerns regarding fraud in the absentee ballot area, but believes that any statute must be narrowly drawn so as not to discourage voter participation. Section 11 would repeal the requirement of pre-registering with the town clerk and would also eliminate the requirement of maintaining and filing a list of the people who receive absentee ballot applications, thereby alleviating the burdens placed on the town clerk, good government groups and voters. The League urges your support for Section 11 specifically and HB 6440 generally.

#### **HB 6441 AAC Confidence in the Connecticut Election System**

The League supports implementation of voting systems that are secure, accurate, recountable and accessible in order to ensure the integrity of, and voter confidence in, elections. We also believe in open and transparent government. Against this background, we submit the following comments regarding *HB 6441, AAC Confidence in the Connecticut Election System*.

- **Section 2:** Expanding the investigatory and enforcement powers of the State Elections Enforcement Commission is a League priority. We believe that the SEEC should have the power to enforce regulations and formal rulings and opinions of the Secretary of the State. This section addresses enforcement of regulations, rulings, opinions, directives and procedures. Inasmuch as the SEEC has the power to impose civil penalties running into the thousands of dollars, we believe that it is important that the SEEC enforce only directives and procedures which have been properly publicized, are generally applicable, are in final written form and are easily accessible.
- **Section 3:** This section provides that "[a]ny person who, without authority, intentionally" opens a ballot container, breaks a seal on a ballot container or changes or remove ballots during the 180 day period following an election shall be imprisoned not more than 5 years. It is our experience that ballot containers are opened for understandable reasons, such as to retrieve an original moderator's return that was inadvertently enclosed in the container. We believe that the term "without authority" is vague and that mandatory imprisonment may be a draconian response in many cases. We ask the committee to consider imprisonment as an option along with fines or other penalties if it is determined

that there was intentional disregard of security procedures/protocol. Additionally, this section assumes that all vaults use keys; given the lack of uniformity across the state, provision should be made for vaults that rely on methods other than keys, for example, combination locks.

- Section 6: The League supports allowing a candidate to waive a recanvass, but not to waive a manual hand-to-eye count in a recanvass. We also support exempting recanvasses from subsequent post-election audits.
- Section 7: This section imposes a deadline of midnight for filing the results of an election. Given the complexity of some moderator's returns, we question whether a midnight filing deadline is appropriate in all cases.
- Section 8: This section deals in detail with audits. The League does not have the expertise to comment on the percentages contained in Section 8(b) and Section 8(f). We support the proposals contained in Sections 8(c), (d), (p) and (q) which prohibit recanvasses from being subject to audit, provide rules for questionable ballots, require the Secretary of the State to issue procedures for hand counting, and spell out the documents which should be available at an audit, the requirements for reporting and the rights of the public, respectively.
- Section 11: This section would prohibit registrars who are candidates for office from handling, touching or transporting voting tabulators for 30 days prior to the election and until such voting tabulators are released in writing by the Secretary of the State. The League believes that if this section is enacted, the law must include a provision designating who will test the machines, run the election and conduct any post-election audit in the registrars "absence."

The League of Women Voters of Connecticut appreciates the opportunity to comment on these bills and looks forward to working with you to ensure their passage.

Thank you.

